

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DURRELL ANTHONY PUCKETT,
Plaintiff,
v.
J. CLARK KELSO, et al.,
Defendants.

No. 2:21-cv-1710 AC P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983.

Upon screening the original complaint, the court advised plaintiff that “if, upon amending the complaint, all viable defendants appear to reside in Kings County, . . he will be required to show cause why this case should not be transferred to the Fresno Division of this court.” ECF No. 9 at 7. Plaintiff has now filed an amended complaint that names only defendants that appear to reside in Kings County, which is also the location of the alleged constitutional violations. ECF No. 12.

The federal venue statute provides that

[a] civil action may be brought in

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or

(3) if there is no district in which an action may otherwise be brought as provided in this action, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b). A district court may, on its own motion, “transfer a case *sua sponte* under the doctrine of *forum non conveniens*, as codified at 28 U.S.C. § 1404(a), so long as the parties are first given the opportunity to present their views on the issue.” Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986) (citations omitted). In this case, such a transfer appears proper.

The conduct alleged to have violated plaintiff's rights occurred at California State Prison-Corcoran, which is located in Kings County, which is in the Fresno Division of this court. Furthermore, all currently named defendants also appear to reside in Kings County. J. Clark Kelso and S. Gates—who were named in the original complaint and appeared to be the only defendants located within the Sacramento Division of this court—have not been included in the amended complaint. It therefore appears that this action should proceed in the Fresno Division of this court and plaintiff must show cause in writing why this case should not be transferred to the Fresno Division.

Accordingly, IT IS HEREBY ORDERED that within twenty-one days of the service of this order, plaintiff must show cause in writing why this case should not be transferred to the Fresno Division of this court. If plaintiff does not object to this case being transferred, he may file a notice consenting to the transfer.

DATED: December 20, 2022

Allison Claire
ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE